

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

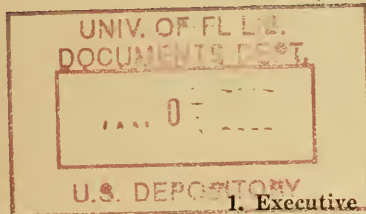
FOR THE

CIGAR CONTAINER INDUSTRY

AS APPROVED ON NOVEMBER 27, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 2213 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 933 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Building.

Approved Code No. 135

CODE OF FAIR COMPETITION
FOR THE
CIGAR CONTAINER INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

Executive Order

An application having been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Cigar Container Manufacturers Code, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report and recommendations, and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(433)

NOVEMBER 1, 1933.

The PRESIDENT,
The White House,

SIR: This is a report on the Code of Fair Competition for the Cigar Container Industry in the United States, as revised after a hearing conducted in Washington on October 19, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

The maximum is 40 hours a week with the following exceptions: Executives and Supervisors receiving \$35 per week or more. Watchmen, firemen, delivery, or repair crews, not to exceed 10 percent of employees in any one plant; time and one-half for hours in excess of 40 hours per week. During the peak season from September 10th to December 10th employees may be employed 48 hours per week provided the average weekly hours over any six-month period shall not exceed an average of 40 hours per week. Productive machinery may not be operated more than 8 hours per day except during the three-month peak season when machinery and employees may not be employed more than nine and one half hours in any one day.

The minimum wage provided for employees shall be 40 cents per hour in the Northwest, 32½ cents per hour in the North, and 30 cents per hour in the South. Persons working on piece work are guaranteed minimum hourly wages. Weekly compensations which were higher as of June 15, 1933, than minimum provided for in the Code shall not be reduced. Differentials existing between common labor and skilled labor before enactment of Code are to be maintained. Females performing men's work shall receive men's wages. Learners shall receive 80 percent of minimum wage and shall not be employed as learners for a period longer than eight weeks.

CHILD LABOR

The age limit is 16 years, except in hazardous positions where the age limit shall be 18 years.

ECONOMIC EFFECTS OF THE CODE

The average weekly hours in the industry have been 50 to 55 hours per week. The hour schedule fixed by the Code should increase employment in the industry from 20 percent to 25 percent.

The minimum wages represent an increase of from 42 percent to 81 percent from present low levels and from 15 percent to 41 percent above the levels of 1929. The members of the industry have evidenced a readiness to comply with the spirit of the Act in every way.

FINDINGS

The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Cigar Container Industry; and that

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

CIGAR CONTAINER INDUSTRY

ARTICLE I—PURPOSES

This Code is an undertaking in self government subject to the supervision of the Administrator of Title I of the National Industrial Recovery Act for the purpose of increasing employment, establishing fair and adequate wages, effecting necessary reduction of hours, improving standards of labor, and eliminating unfair trade practices, to the end of rehabilitating the Cigar Container Industry, avoiding further depletion and destruction of capital assets and enabling it to do its part toward establishing that balance of industries which is necessary to the restoration and maintenance of the highest practical degree of public welfare. Upon being approved by the President, this Code shall constitute the standards of Fair Competition for the Cigar Container Industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

(a) The term "Cigar Container Industry" as used herein includes the manufacture for sale or for use by the manufacturer of all types of cigar containers which are required by federal laws or regulations to bear a factory number and which are subject to the provisions of the Internal Revenue acts of the United States and regulations issued thereunder, as now in force or as hereafter amended.

(b) The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his service irrespective of the nature or method of payment of such compensation.

(c) The term "employer" as used herein includes anyone by whom such employee is compensated or employed.

(d) The term "member of the industry" includes anyone engaged in the industry as above defined, either as an employer or on his own behalf.

(e) The terms "President", "Act", and "Administrator", as used herein, shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

(f) The term "Association" as herein used means the National Cigar Box Manufacturers Association.

ARTICLE III—HOURS OF LABOR

(a) Except as hereinafter otherwise provided no employee shall be permitted to work in excess of 40 hours in any one week.

(b) The maximum hours fixed in the foregoing provision shall not apply:

1. To employees in an executive or supervisory capacity receiving \$35.00 or more per week;

2. To watchmen, firemen, delivery or repair crews; provided, however, that the number of such employees shall not exceed 10 percent of the total number of employees in any single plant; and provided further, that one and one half times their normal rate shall be paid to all such employees for hours worked in excess of the maximum weekly hours (40 hours) hereinabove provided.

(c) The members of the industry may, if necessary to meet customers' requirements, during the season of peak demand beginning September 10th and ending December 10th, after application to and approval of the Authority, permit employees to work not more than 48 hours in any one week; provided, however, that the average weekly hours of any employee in any six months' period shall not exceed the maximum hours specified in section (a) of this Article.

(d) Members of the Industry shall not operate productive machinery in the industry nor engage employees for more than one shift of eight hours per day; provided, however, that during seasons of peak demand hereinabove referred to, productive machinery may be operated and employees engaged not more than nine and one-half hours in any one day.

(e) No employer shall knowingly engage any employee for any time which when totaled with that already performed with another employer or employers, exceeds the maximum permitted herein.

ARTICLE IV—MINIMUM WAGES

(a) No employee shall be paid less than the rate hereinbelow set forth for the territory designated:

1. Washington, Oregon, California, Utah, Nevada, and Colorado (North of 38 degrees north latitude), 40¢ per hour.

2. All the remainder of the United States north of 39 degrees, 43 minutes north latitude, 32½¢ per hour.

3. All the remainder of the United States south of 39 degrees, 43 minutes north latitude 30¢ per hour.

(b) Persons who are limited in their earning power through physical or mental defects, age, or other infirmities, may be employed on lighter duties below the minimum wage hereinabove provided and for longer hours than are herein authorized if the employer obtains from the State Labor Commission a certificate authorizing the employment of such employees in such manner; provided, however, the number of such employees shall not exceed five percent of the total number of employees in any plant nor receive less than 80% of the minimum wage required by this Code.

(c) This article establishes a minimum rate of pay regardless of whether an employee is compensated on a piece rate, time rate, or other basis.

(d) The weekly compensation effective June 15, 1933, in excess of minimum wage hereinabove specified shall not be reduced, notwithstanding that the hours of work in any such employment may be reduced.

(e) The wages of all employees receiving more than the minimum rates herein prescribed shall be equitably adjusted and the differentials existing prior to the date of the approval of this Code maintained.

(f) Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

(g) The minimum wages hereinabove specified shall not apply to apprentices or learners; provided, however, that the total number of such apprentices and learners shall not exceed five percent of the total number of employees engaged by a member of the industry in any one plant; and provided further that the wages paid to such apprentices and learners shall not be less than eighty percent of the minimum rates hereinabove specified; and provided further that the period of apprenticeship or learning shall not exceed eight weeks.

ARTICLE V—GENERAL LABOR PROVISIONS

(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives, or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee, and no one seeking employment, shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(d) No person under 16 years of age shall be employed in this Industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate duly issued by the authority empowered to issue employment certificates showing that the employee is of the required age.

(e) Home work shall not be permitted.

(f) Within each State no provision of this Code shall supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than provided under this Code.

(g) Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

(h) Each employer shall post in conspicuous and accessible places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To effectuate further the policies of the Act, a Code Authority, hereinafter referred to as the Authority, is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. *Organization and constitution of Code Authority.*

(a) The Code Authority shall consist of seven individuals or such other members as may be approved from time to time, by the Administrator, to be selected by a fair method. The Administrator, in his discretion, may appoint additional nonvoting members to represent the President. The Code Authority shall be the official agency of the Industry for the Administration of this Code.

(b) The Code Authority shall be selected as follows:

Within thirty days after the approval of this Code by the President, the proponents of the Code, the National Cigar Box Manufacturers' Association, after due and reasonable notice to the Industry, shall call a meeting of the members of the Industry for the purpose of selecting the members of the Code Authority. At such meeting and election, each member of the Industry shall be entitled to one vote either in person or by proxy and the notice of such meeting shall so specify.

One member of the Code Authority shall be selected by the National Cigar Box Manufacturers' Association, one member of the Code Authority shall be selected by the Eastern Cigar Box Manufacturers' Association; one member of the Code Authority shall be selected by the Western Cigar Box Manufacturers' Association; and one member of the Code Authority shall be selected by members of the Industry who are not members of any of the Associations hereinabove named.

Each member so selected shall be the representative of the group by whom such member is elected. The remaining three members of the Code Authority shall be elected by a majority vote of all members of the Industry present in person or by proxy.

(c) Each trade or industrial association directly or indirectly participating in the selection or activity of the Authority shall—

1. Impose no inequitable restriction on membership, and

2. Submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments made thereto, together with such other information as to membership, organization, and activity as the Administrator may deem necessary to effectuate the purposes of this Act.

(d) In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearing as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative and does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selecting the Code Authority.

2. *The Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Authority.*

(a) The Authority shall be the General Planning and Administering Agency of this Code.

(b) The Authority may make such rules and regulations and impose upon members of the Industry such restrictions as may be necessary to administer this Code.

(c) The Authority is also set up to cooperate with the Administrator in making investigation as to the functioning and observance of any provisions of this Code, at its own instance, at the request of the Administrator, or on complaint of any person affected, and report the same to the Administrator.

(d) The Authority shall coordinate the Administration of this Code with such codes, if any, as may affect this Industry, or any related industry, with a view to promoting joint and harmonious action upon matters of common interest.

(e) The Authority shall designate such divisional agencies to assist in the proper supervision and operation of this Code as it may deem wise and may delegate to said agencies such power granted by this Code to the Authority as in its judgment may be necessary to the efficient and effective operation thereof. The Authority may from time to time change the personnel of any agency which it has appointed, or modify the powers delegated thereto. The Authority shall, however, reserve final responsibility with respect to any powers or duty delegated by it.

ARTICLE VII—CODE REPORTS AND PARTICIPATION

(a) In order that the President may be informed of the extent of the observance of the provisions of this Code and of the extent to which the declared policy of the National Industrial Recovery Act is being effectuated in the Cigar Container Industry, the Authority shall make such reports as the Administrator may require, periodically, or as often as he may direct, and each member of the Industry shall make such sworn or unsworn reports to the Authority, periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters necessary for the Administration of this Code as the Authority may require.

(b) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof. Those who participate or accept the benefits of the activities of the Authority shall pay their reasonable share of the expense of its administration of this Code. The reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(c) Statistical information required by the Code Authority in accordance with the provisions of this Code shall be deemed confidential and shall not be divulged to any member of the Industry, or any other person, except in summary, but shall be made available to the Administrator upon request and may be used to facilitate the administration of this Code. In the event that summary information in effect divulges the identity of individual members of the Industry it shall not be revealed to any other member of the Industry except upon the written permission of said member.

(d) In addition to the information required to be submitted to the Code Authority, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

ARTICLE VIII—COST PROTECTION

(a) The Authority shall employ a firm of representative certified public accountants to formulate and submit to it a uniform method of cost inclusion and application, and when this shall have been adopted by the Authority, and approved by the Administrator, each member of the industry shall immediately proceed definitely to determine the cost of each type of container he produces in accordance with the method so adopted, and with regulations issued by the Authority thereunder. Members of the Industry shall be entitled, if they so desire, to employ their own certified public accountants, provided that in ascertaining their costs through their own certified accountants they shall comply with the requirements of the uniform method of cost inclusion adopted and approved as herein provided.

(b) Whenever and so long as the Authority determines that it will contribute toward the accomplishment of the declared purposes of the Code, and whenever it is satisfied that it is able to determine the costs under the uniform method hereinabove mentioned, the Authority is authorized to establish, and from time to time revise, minimum prices, to protect the cost of the various types of containers manufactured by the Industry. Such minimum prices shall be established with due regard to the maintenance of free competition among the various types of containers, with the products of other industries, and to the encouragement of the use of said products; and shall be not more nor less than the weighted average costs determined as provided in this Article and under such rules and regulations as the Authority may from time to time adopt and issue. The original average weighted cost and any revisions thereof as provided for herein shall be approved by the Administrator as equitable and fair before being announced by the Authority.

(c) Until the Authority shall have established minimum prices as provided in Section (b) hereof, no member of this Industry shall sell any type of container below his own cost as established in paragraph (a) excepting to meet the competition of a lower cost producer, and, upon being notified by the Authority that it has established a minimum price for any type of container, as provided in paragraph (b), no member of the Industry shall sell any such container below that minimum price.

ARTICLE IX—CANCELLATION OR MODIFICATION

This Code, and all the provisions thereof, are expressly made subject to the rights of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code, or any conditions imposed by him upon his approval thereof.

After due notice and hearings this Code may be amended upon the recommendation of the Code Authority or any interested party or group, or upon the Administrator's own notice, and any modification so arrived at shall be effective when approved by the President.

ARTICLE X—MONOPOLIES

(a) This Code shall not be construed, interpreted, or applied so as to promote or permit monopolies or monopolistic practices, and shall not be availed of for that purpose.

(b) The provisions of this Code shall not be so interpreted or administered as to eliminate or to oppress, or to discriminate against small enterprises.

ARTICLE XI—VIOLATIONS

Violation by any person of any provisions of this Code, or the submission of any false statement or report to the President, or to the Authority, shall constitute an unfair method of competition, and the offender shall be subject to the penalties imposed by the National Industrial Recovery Act.

ARTICLE XII—RULES OF FAIR TRADE PRACTICE

(a) No member of the Industry shall make, or permit to be made, direct quotations of prices, terms, or quantities guaranteed for a period in excess of thirty days.

(b) No member of the Industry shall grant cash discounts in excess of "2%, ten days, e.o.m.", or "thirty days net, e.o.m.", nor extend credit in excess of sixty days from net due date.

(c) No member of the industry shall secretly offer, allow, or permit to be given any rebates, commissions, refunds, credit, free goods, unearned discounts, whether in the form of money, material, or otherwise, for the purpose of influencing a sale, nor shall a member of the industry secretly extend to any customer any special service or privilege not extended to all customers of the same class.

(d) No member of the industry shall sell cigar containers on consignment.

(e) *Commercial Bribery*.—No member of the Industry shall directly or indirectly, give or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

(f) No member of the Industry shall use or substitute in the sale of any cigar containers any materials of a superior or inferior quality to that specified by the customer, or specified in any quotation made prior to any such sale, and accepted by the customer.

(g) *Defamation*.—No member of the Industry shall defame competitors by falsely imputing to them dishonorable conduct, inability

to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods. Any person, firm, or corporation engaged in supplying material to members of the Industry, or any employee of any such person, firm, or corporation, making or permitting to be made any false representations as to any member of the Industry, his financial standing, personal integrity, commodities, prices, or ability to serve his trade, may be reported to the Authority which shall promptly report such false representations to the proper agency of the Code of Fair Competition, if any has been theretofore approved by the President, which constitutes the standards of Fair Competition for such person, firm, or corporation.

ARTICLE XIII—EFFECTIVE DATE

This Code shall be effective on the second Monday after the date of its approval by the President.

Approved Code No. 135
Registry No. 303-02





UNIVERSITY OF FLORIDA



3 1262 08582 8118